



AZ POST

INTEGRITY BULLETIN

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The Arizona Peace Officer Standards and Training Board (AZ POST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZ POST Rules. The following is a summary of some of the actions taken by the Arizona Peace Officer Standards and Training Board at its **August and September 2008**, public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, this Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have.

August and September 2008

CASE NO. 1

ALCOHOL ON BREATH

Officer A reported to duty with alcohol on his breath. He had consumed about 5 drinks the night before, stopping at around 3:00 a.m., nine hours before his shift began at noon. Others smelled alcohol on his breath when he reported for duty. A preliminary breath test read .038, but it had not been calibrated, so there was no reliable measure of the alcohol in his system, however he was not intoxicated. After being driven home, he discovered that due to a medical condition, he did not metabolize alcohol normally, and submitted medical documentation to POST verifying this. The Board adopted a consent agreement calling for a 90 day (retroactive) suspension of peace officer certification for misfeasance and malfeasance in office.

CASE NO. 2

PORNOGRAPHIC EMAIL

Officer B was a school resource officer for many years. He regularly exchanged emails with friends, family and co-workers of an inappropriate nature. The district's IT department discovered about 50 pornographic images on his district computer. When confronted, Officer B was completely honest and forthright about his conduct and resigned. The Board imposed an eight month suspension for malfeasance in office and conduct that tends to disrupt, diminish or otherwise jeopardize public trust in the law enforcement profession.

CASE NO. 3

DISHONESTY

Deputy C was involved with a domineering and possibly abusive boyfriend. He called her constantly and if he could not reach her, he called dispatch to reach her. She requested and was denied permission to have him ride along with her. He had a troublesome criminal background. Nonetheless, she snuck him along with her on numerous duty shifts. He disrupted her work and communications with other deputies. When asked about his riding with her, she lied. She was also dishonest during two interviews after Garrity warnings. The Board revoked her certification for malfeasance in office.

CASE NO. 4**FAILURE TO DO REPORTS**

Officer D had been placed on a performance improvement plan, in part for failing to investigate and make necessary reports. During a three month period after being placed on the improvement plan, Officer D failed to complete required reports and/or impound evidence in 37 separate cases. A hearing before the Office of Administrative Hearings detailed each failure and the damage to persons, property and public trust that resulted from each failure. The Board revoked his peace officer certification for misfeasance, malfeasance and nonfeasance in office and conduct that tends to jeopardize public trust in the law enforcement profession.

CASE NO. 5**VIOLATING FOURTH AMENDMENT RIGHTS**

Deputy E received information from an informant that a possible suspect in numerous commercial burglaries may be at a particular residence. He arrived at the residence along with a detective and another patrol deputy. They were met in the driveway by the home owner. Deputy E explained his reasons for being there and asked if the suspect he was searching for was in the home. The home owner said, "no," and refused to give consent to search the home. The home owner was placed in handcuffs and detained in the backseat of a marked patrol car. Deputy E then went to the front door and knocked several times. He opened the door and announced who he was, and then entered the home without consent and without a search warrant. Deputy E acknowledges that he should not have entered the home under these circumstances, but at the time he believed he was justified in making entry. The Board adopted a consent agreement calling for Deputy E to study up on Search and Seizure law and practice and to pass the portions of the Comprehensive Final Examination covering those areas.

CASE NO. 6**THEFT**

Detective F, a School Resource Officer, offered to form a race car club at the high school where he served. The school issued the detective a check for \$1500.00 in donated funds to purchase race equipment for the club. He failed to produce equipment for the club and he failed to account for the money. He later said he had purchased go karts but when he did not get the support from the school and the department for the club, he sold the karts and kept the money. He was convicted of theft. His certification was revoked for committing an offense involving dishonesty.

CASE NO. 7**FALSE INFORMATION**

Officer G was hired as an out of state lateral and certified following a waiver test in December 2005. In October 2006, Arizona POST received a letter from Officer G's estranged wife claiming that he had omitted some important information in his applications for employment and certification and falsified other information. POST provided the information to the chief of police at Officer G's agency. An investigation determined that he had failed to disclose a conviction for child endangerment for beating a 5 year old with a belt, and gave inaccurate employment and residence history. The agency terminated his employment and the Board revoked his certification for providing false information in connection with obtaining certification.

CASE NO. 8**NONFEASANCE AND DISHONESTY**

Officer H chronically failed to complete reports and properly impound evidence. He lied to numerous citizens, supervisors and eventually professional standards bureau to cover up his failures. He informed investigators that he had no property relating to the 150 or so unfinished reports. He later returned with three boxes and several trash bags containing various paperwork, evidence and property. The board revoked his certification for malfeasance, misfeasance and nonfeasance in office for not doing his work and dishonesty.

Officer I needed gasoline in his personal vehicle, so while at work he left his patrol car, took his personal vehicle to the government pumps, and dispensed gas into his car. He actually did this twice during the same shift because a fellow officer saw him there the first time, so with 5.2 gallons on the pump, he quickly stopped pumping gas and left. He returned about two hours later and stole another 1.7 gallons of gas. Officer I appeared before the Board and offered several letters of support. The Board revoked his peace officer certification for committing theft, an offense involving dishonesty and malfeasance in office.

The Board adopted consent agreements calling for a voluntary relinquishment in the following fact situations. The scenario stated here reflects the allegations giving rise to the POST case, but the facts were not proven before the Board.

- An officer struck his ex-wife's car window and lied about it to responding officers.
- An officer assaulted his wife.
- A deputy lied on his application for certification about his use of methamphetamine.
- A sergeant conducting an IA investigation encouraged the subject of the investigation to lie so it would not look as bad.
- An officer assaulted a man after a bar dispute.
- An officer was the subject of a criminal investigation for child molestation.

The Board entered mandatory revocations for the conviction of the following felonies:

- none

On August 20, 2008, and September 17, 2008, the Board voted to close out the following cases without initiating a Complaint for disciplinary action. This is neither a finding that no misconduct occurred nor a comment that the Board condones the conduct. In fact, the Board's rules are very broad and all misconduct violates one or more of the disciplinary rules. The Board may choose not to initiate a Complaint in a case even though there is misconduct if, considering all the circumstances, including agency discipline, the conduct does not rise to the level requiring a formal administrative proceeding. In many of these cases, the Board makes a statement that the conduct is an important consideration for a future hiring agency. By not taking disciplinary action, the Board leaves the matter to the discretion of an agency head who may choose to consider the officer for appointment. The Board relies on and enforces the statutory requirement of A.R.S. §41-1828.01 that agencies share information about misconduct with each other, even in cases where the Board has chosen not to take additional independent disciplinary action. Additionally, in some of these cases, further information is necessary before a charging decision can be properly made.

- An officer committed DUI off duty in his personal vehicle.
- A sergeant failed to back up a fellow officer as quickly as the officer thought he should have.
- A specialty officer initially denied that he knew about a car leaving the work lot with tires spinning enough to throw dirt onto a static scale, when it had been him.
- A recruit was untruthful about having tried to get extra help with her remedial class work.
- An officer's corporation made earnings while he was on disability leave.
- An officer received a prescription for testosterone from a doctor in Mexico, dispensed by injection by a pharmacist in Mexico.
- A sergeant tested positive for marijuana under circumstances that left much doubt about the reliability of the test.
- A sergeant refused to participate in an internal affairs investigation into reported steroid use.
- A captain and a sergeant were the subject of rumors that they were having an affair.
- A sergeant failed to report damage to his vehicle promptly and in a manner that enabled an effective investigation.
- An officer failed to follow department procedure in handling certain cases.